

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

| | | |
|--------------------------|---|--------------------------|
| XYAVION CORTEZ | : | |
| LAWRENCE, | : | |
| Plaintiff | : | No. 1:23-cv-00480 |
| v. | : | (Judge Rambo) |
| J. FOURA, et al., | : | |
| Defendants | : | |

ORDER

AND NOW, on this 6th day of September 2023, for the reasons set forth in the Memorandum accompanying this Order, **IT IS ORDERED THAT:**

1. Plaintiff's amended complaint (Doc. No. 12) is **DISMISSED**, as follows:
 - a. Plaintiff's Eighth Amendment conditions-of-confinement claim and Fifth Amendment procedural due process claims are **DISMISSED** with prejudice against all Defendants pursuant to 28 U.S.C. § 1915A(b)(1) for failure to state a claim upon which relief may be granted;
 - b. Plaintiff's First Amendment Petition Clause claim is **DISMISSED** without prejudice pursuant to 28 U.S.C. § 1915A(b)(1) for failure to state a claim upon which relief may be granted;
2. Plaintiff, if desired, may file a second amended complaint in accordance with the accompanying Memorandum within **21 days** of the date of this Order; and
3. If no second amended complaint is timely filed, dismissal will automatically convert to dismissal *with prejudice* and the Court will CLOSE this case.

s/ Sylvia H. Rambo
United States District Judge